IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2656 OF 2004

Dr.Narendra Madhusudan Sangani ...Petitioner

V/s.

The State of Maharashtra & Anr. ...Respondents

Mr.K.M. Sangani for Petitioner.
Mr.Y.M. Nakhawa APP for the State/Respondent No.1.
Mr.Patil i/b. N.K. Mudnaney for Respondent No.2.

CORAM : V.M. KANADE, J.

DATED : 28th AUGUST, 2007.

P.C:-

1. Heard learned counsel for the Petitioner and learned counsel for the Respondent No.2.

2. The Petitioner is the original accused who is challenging the issuance of process passed by the Magistrate, which order was confirmed in Misc. Application No.657/2004 filed in Criminal Revision Application No.4074 of 2004 filed by the Petitioner herein, by the Sessions Court by an order dated 02/09/2004. It is alleged in the

complaint that the Petitioner has committed an offence punishable U/s.421 of IPC.

3. Learned counsel for the Petitioner submitted that a Civil Suit was filed by the Respondent No.2 herein which is pending in this Court. He submitted that dispute, therefore, between the parties was of a civil nature and criminal complaint was not maintainable. In support of his submissions, he relied on number of judgments of this Court and the Apex Court.

4. In my view, the Petitioner has an alternative remedy to file an application for discharge. If such an application is preferred, same shall be decided on merits and in accordance with law. Hence, there is no reason to interfere with order of issuance of process at this stage. The Writ Petition is accordingly dismissed. Application for amendment does not survive and is disposed of accordingly.

V.M. KANADE, J.